

Appl. No. 10/615,638
Amendment dated September 8, 2005
Reply to Office action of July 7, 2005

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 1. This sheet, which includes Fig. 1, replaces the original sheet including Fig. 1. In Fig. 1, the legend "Prior Art" has been added.

Attachments: **Replacement Sheet**
Annotated Sheet Showing Changes

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REMARKS

This Amendment and Response to Office Action is responsive to an Office action dated July 7, 2005 setting forth a shortened statutory period for reply expiring on October 7, 2005. A Petition to Make Special based on Applicant's Health has been granted for this application.

Claims 1-10 and 13-20 were pending in the application with claims 1, 6 and 9 being independent claims. Claims 11 and 12 were previously withdrawn from consideration. In the Office action, the Examiner rejects claims 1-10 and 13-20 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 4,998,631 to Fridjhon. The Examiner also objected to Fig. 1 and required that the legend "Prior Art" be provided for Fig. 1.

By this amendment, claim 1 and 6 have been amended, and claims 9-20 (including previously withdrawn claims 11-12) are canceled without prejudice. Fig. 1 has been amended to add the legend "Prior Art."

Reconsideration of the application and claims is respectfully requested.

Objection to the Figures

The Examiner objected to Fig. 1 and required that the legend "Prior Art" be provided for Fig. 1. The legend "Prior Art" has been added to Fig. 1 and accordingly it is respectfully requested that this objection be withdrawn.

Rejection of Claims 1-20 as Anticipated

The Examiner rejected claims 1-10 and 13-20 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 4,998,631 to Fridjhon. Independent claims 1 and 6 have been amended and are now believed to be patentable over the cited prior art. Claims 9-20 have been canceled without prejudice.

Claims 1-5

Claim 1, as amended, is believed to be allowable over the Fridjhon patent. Claim 1 recites, in part, a wine rack comprising "a first support member having a fixed end and a free end, the fixed end of the first support member attached to the first frame element" and "a second support member having a fixed end and a free end, the fixed end of the second support member attached to the second frame element." The Fridjhon patent discloses rods 11 that do not have a free end, as both ends of Fridjhon's rods 11 are fixed to uprights 10 (see Fig. 1 of Fridjhon).

Claim 1 also recites "the first and second support members supporting the wine bottle in a substantially parallel relation to the wall." The Fridjhon patent discloses wine bottle 12 in a perpendicular relation to the wall. The wine rack of Fridjhon would be attached to wall surface

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using fasteners through the apertures 16a of six brackets 16 as shown in Fig. 1, as stated by Fridjhon at col. 2, lines 54-61:

In order to secure a wine rack in this [sic] erected configuration, the invention further provides brackets 16 which may conveniently be extensions of the brace elements 14 and which project to the rear of the wine rack as shown. In use the bracket 16 will be employed to secure the wine rack to a support surface such as a wall surface for [sic] example by driving fasteners through apertures 16a in the brackets 16.

For at least these reasons, claim 1 is allowable over the Fridjhon patent. Because claims 2-5 depend from and further limit independent claim 1, claims 2-5 are also allowable over the Fridjhon patent.

Claims 6-8

Independent claim 6 as amended is believed to be allowable over the Fridjhon patent. Claim 6 recites, in part, a wine rack comprising "a first pair of support members for supporting at least a first and a second wine bottle in a first horizontal row and in a substantially parallel relation to the wall" and "a second pair of support members for supporting at least a third and a fourth wine bottle in a second horizontal row and in a substantially parallel relation to the wall."

Fridjhon's wine bottles are supported in a perpendicular relation to the wall, as described above. For at least this reason, claim 6 is allowable over the Fridjhon patent.

Claims 9-20

Claims 9-20 have been canceled without prejudice, and therefore the rejection of claims 9-10 and 13-20 is now moot. Applicant reserves the right to traverse, in a continuation application, the argument that Fridjhon anticipates claims 9-10 and 13-20.

CONCLUSION

In light of the above, claims 1-5 and 6-8 are believed to be allowable, and a prompt Notice of Allowance is respectfully requested.

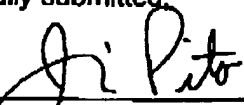
The Applicant believes no further fees or petitions are required with this Amendment. However, if any petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

Appl. No. 10/615,638
Amendment dated September 8, 2005
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If the Examiner should require any additional information regarding this Amendment, please contact the undersigned attorney.

Dated: September 8, 2005

Respectfully submitted,



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Attachments

1/10

ANNOTATED SHEET SHOWING CHANGES

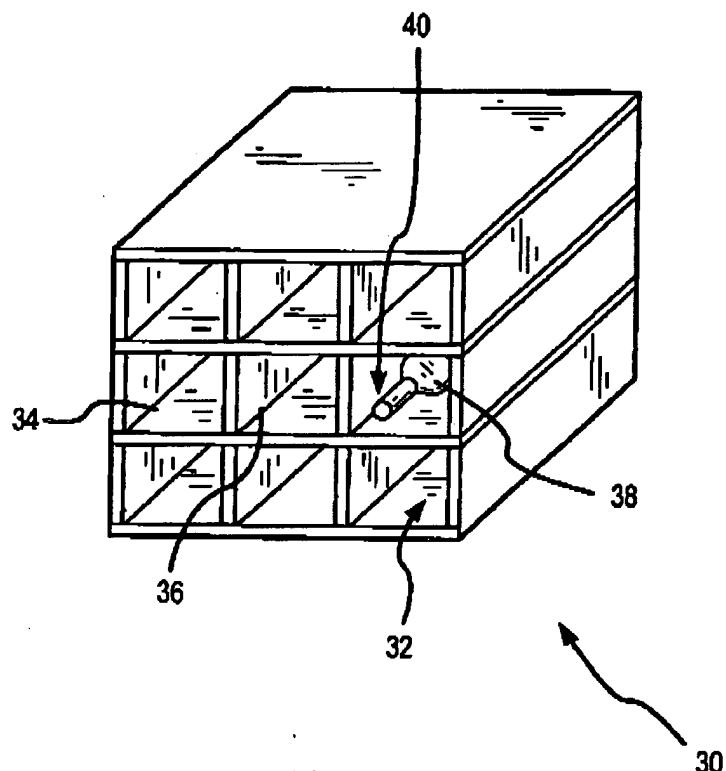


FIG.1

"PRIOR ART"
LEGEND ADDED

PRIOR ART